

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**07-20631-CR-HUCK/SIMONTON**  
CASE NO.

18 U.S.C. § 371

UNITED STATES OF AMERICA,

vs.

RUPERT FRANCIS,  
Defendant.

INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

The Clinic

1. United Life, Corp. (hereinafter, "United Life") was incorporated in the State of Florida on January 22, 2004. United Life was a medical clinic located at 4218 E. 4th Avenue, Hialeah, Florida, and was in business from in or around January 2004 through in or around February 2005, when the clinic closed.

2. United Life purportedly specialized in the treatment of patients diagnosed with human immunodeficiency virus (hereinafter, "HIV"). HIV is a viral infection that attacks a patient's immune system. United Life purported to provide injections of medications such as Filagragstim, as well as intravenous infusion treatments, i.e., treatments which required the insertion of a needle into a patient's vein in order to administer multivitamins and "Immune Globulin" medications such as Gamunex. Intravenous immune globulin (hereinafter, "IVIG") medications can be used in select cases to treat HIV patients.

3. Employees at United Life submitted claims to Medicare seeking reimbursements for the cost of infusion treatments of Gamunex and Filgrastim injections that were purportedly provided to patients. United Life did not have a Medicare Provider Number and therefore used the Medicare Provider Number assigned to **RUPERT FRANCIS** to bill for all services rendered at United Life.

4. From in or around January 2004, through in or around February 2005, United Life and **RUPERT FRANCIS** billed approximately \$7,785,856 and received approximately \$2,042,633 in Medicare reimbursements based upon claims for alleged treatments of Gamunex and Filgrastim.

#### **The Medicare Program**

5. The Medicare Program (hereinafter, "Medicare") was a federal insurance program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The United States Department of Health and Human Services (hereinafter, "HHS") was responsible for the administration of Medicare. Centers for Medicare and Medicaid Services (hereinafter, "CMS") was the component agency of HHS that administers and supervises the Medicare Program. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

6. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

7. Medicare Part B paid for a portion of the cost of certain necessary medical services and medications that were provided and ordered by physicians, clinics, and other qualified health care providers. Medicare Part B was administered in Florida by First Coast Service Options (hereinafter, "FCSO"), a company that contracted with CMS to receive, adjudicate, process, and pay Medicare Part B claims. Medicare Part B payments were made directly to the physician, clinic, or

other provider of the medical services, rather than to the beneficiary.

8. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider who had been issued a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare identification number, the services that had been performed for the beneficiary, the date the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who had ordered the services.

9. For Medicare billing purposes, medical services and medications provided to beneficiaries were identified by a Current Procedural Terminology ("CPT") code. The CPT code for Gamunex was J1564.

10. **RUPERT FRANCIS** was a Medicare provider who purportedly treated HIV patients by providing "infusion" of expensive medications such as immune globulin. As a Medicare provider, **RUPERT FRANCIS** was eligible to provide medical services to Medicare beneficiaries, to bill Medicare for those services, and to be reimbursed by Medicare. As a Medicare provider, **RUPERT FRANCIS** was required to meet certain obligations before submitting claims for payment. These obligations were to: (a) bill Medicare for only reasonable and necessary medical services; (b) not make false statements or misrepresentations of material facts concerning requests for payment under Medicare; (c) provide economical medical services, and then, only where medically necessary; (d) assure that such services are not substantially in excess of the needs of such patients; and (e) not submit or cause to be submitted bills or requests for payment substantially in excess of the provider's costs.

11. In order to bill the Medicare Program for services purportedly rendered, a Medicare provider electronically submitted claims on a Form 1500 (a claim form) to FCSO. When a Form 1500 was submitted, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing Medicare.

12. Some Medicare providers filed claims directly with FCSO, but others contracted with a billing service that processed the Medicare claims on behalf of that provider. When a billing service was used, the billing service was given access to the provider's Medicare information by the Medicare provider and then submitted the request to Medicare. Commonly, a "Super Bill", that is, a preprinted form that itemizes and describes all services and fees that had been rendered on behalf of a Medicare beneficiary, is provided to the billing service. FCSO, on behalf of Medicare, paid the Medicare claims with federal funds. The provider received payment from Medicare in the form of either electronic deposit or check. The provider in turn paid the billing service a portion of the amount received from Medicare, which usually consisted of a five to seven percent fee, either by electronic deposit or check, as a fee for services rendered. Billing services were not independently licensed or regulated. The billing service was given a "submitter number" by Medicare, and were allowed to select their own password. Billing companies normally maintained copies of documents received from their client Medicare provider in order to authenticate billing. Medicare provider **RUPERT FRANCIS** contracted with a billing company named DNA Billing to process its Medicare claims.

#### **The Defendant and Co-Conspirators**

13. Defendant **RUPERT FRANCIS** was a medical doctor licensed to practice in the State of Florida. **FRANCIS** was employed by United Life and treated patients there from in or around January 2004 through in or around February 2005. **FRANCIS** controlled and had signature

authority over the bank accounts for United Life and was responsible for reviewing the patient files. FRANCIS was also employed full-time by the federal government as a staff physician at the United States Bureau of Prisons with a daytime work schedule during the entire period while his practice billed Medicare on behalf of United Life.

14. Co-conspirator Lester Miranda established and owned United Life, and oversaw its important business and financial decisions from its inception until the clinic closed in or around February 2005.

15. Co-conspirator Ariel Estevez managed United Life's day-to-day operations until the clinic closed in or around February 2005. Ariel Estevez also controlled and had signature authority over the business bank accounts for United Life from its inception until the clinic closed.

16. Co-conspirator Luis Garcia Higgins was a licensed physician's assistant in the State of Florida and was employed at United Life from in or around March 2004 until in or around February 2005. Garcia Higgins worked in the clinic on a daily basis, examining patients, diagnosing illnesses, and providing patient care. Garcia Higgins was also employed full-time by the federal government as a physician's assistant at the United States Bureau of Prisons with a daytime work schedule during the entire period while he worked at United Life.

17. Co-conspirator Karina Estevez was employed as a medical assistant at United Life from in or around January 2004 until in or around February 2005. Karina Estevez attended to medical files, Medicare billing, and accounting while employed at the clinic.

**Conspiracy to Defraud the United States,  
Commit Health Care Fraud, and Pay Kickbacks  
(18 U.S.C. § 371)**

1. Paragraphs 1 through 17 of the General Allegations section of this Information are realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2004, and continuing through in or around February 2005, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**RUPERT FRANCIS,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Lester Miranda, Ariel Estevez, Luis Garcia Higgins, Karina Estevez, and others unknown to the United States Attorney:

A. to defraud the United States by impairing, impeding, obstructing, and defeating, through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of Medicare;

B. to commit an offense against the United States, that is, to violate Title 18, United States Code, Section 1347, by knowingly and willfully executing, and attempting to execute, a scheme and artifice to defraud and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program as defined in Title 18, United States Code, Section 24(b), that is, Medicare, in connection with the delivery of and payment for health care benefits, items, and services; and

C. to violate Title 42, United States Code, Section 1320a-7(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including any kickback and bribe, directly and indirectly, overtly and covertly, to any person to induce such person to refer an individual for the furnishing and arranging for the furnishing of any item and service for which payment maybe made in whole and in part under Medicare; and to purchase and order, and arrange for and recommend purchasing and ordering, any good, service, and item for which payment may be made in whole and in part by Medicare.

**PURPOSE OF THE CONSPIRACY**

3. It was the purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare for the cost of various health care benefits, items, and services; (b) paying kickbacks and bribes to Medicare beneficiaries so that they would serve as patients at United Life, thereby furthering the billing fraud scheme; (c) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of fraud proceeds, and the payment of kickbacks and bribes; and (d) diverting fraud proceeds for the defendant and his co-conspirators' personal use and benefit.

**MANNER AND MEANS USED TO ACCOMPLISH THE CONSPIRACY**

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, but were not limited to, the following:

4. Lester Miranda established United Life.

5. Ariel Estevez directed medical personnel and assistants at United Life to provide infusion therapy treatments of multivitamins and "Immune Globulin" medications such as Gamunex to patients who were HIV positive or suffered from AIDS.

6. **RUPERT FRANCIS**, Luis Garcia Higgins, Karina Estevez, and their co-conspirators, fabricated therapy notes, impressions and vital signs on "Infusion Therapy" sheets, which falsely stated that patients had received specific dosages of Gamunex by infusion.

7. **RUPERT FRANCIS** and his co-conspirators, submitted and caused to be submitted, to Medicare, numerous false and fraudulent claims on behalf of United Life, seeking reimbursement for the cost of infusion treatments and medications, i.e., Gamunex and Filagrastim, that were not provided, not provided as claimed, and were not medically necessary.

8. To promote and continue the fraud scheme, Ariel Estevez, Karina Estevez, and their co-conspirators, paid kickbacks and bribes to Medicare beneficiaries to ensure that the beneficiaries would serve as patients at United Life.

**OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

In furtherance of the conspiracy, and to accomplish its purpose and objects, at least one of the co-conspirators committed, or caused to be committed, in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

**Establishment of the United Life Clinic**

1. In or about February 2004, Lester Miranda and Ariel Estevez hired Luis Garcia Higgins as the physician's assistant for the United Life clinic located at 4218 E. 4th Avenue, Hialeah, Florida.

2. In or about February 2004, Lester Miranda and Ariel Estevez hired **RUPERT FRANCIS** as the medical doctor for the United Life clinic.

3. On or about February 25, 2004, **RUPERT FRANCIS** signed a Medicare Federal Health Care Provider/Supplier Enrollment Application for Benefits form and received Medicare Provider #U2254.

4. On or about February 24, 2004, Luis Garcia Higgins applied for and received an Occupational License from the City of Hialeah, Florida, enabling him to work as a physician's assistant at the United Life clinic.

5. On or about June 30, 2004, **RUPERT FRANCIS** and Ariel Estevez opened a joint personal bank account at Union Planters Bank in Miami Lakes, Florida, bearing account number 96xxxxxx65.

6. On or about January 21, 2005, **RUPERT FRANCIS** and Ariel Estevez opened a



business checking account in the name of Rupert Francis, M.D. P.A. at Bank of America in Hialeah, Florida, bearing account number 00xxxxxxxx39.

**Medicare Beneficiary W.H.**

7. On or about January 14, 2005, Karina Estevez prepared an Infusion Therapy Sheet that falsely stated that Medicare beneficiary W.H. received Gamunex.

8. On or about January 19, 2005, Luis Garcia Higgins signed a Patient's Follow Up Visit form indicating that he had examined Medicare beneficiary W.H.

9. On or about January 25, 2005, Ariel Estevez and Karina Estevez submitted or caused to be submitted a false claim to Medicare seeking reimbursement for the cost of 6,000 units of Gamunex that purportedly had been provided to Medicare beneficiary W.H. on that date.

10. On or about January 28, 2005, Luis Garcia Higgins signed a "Super Bill" falsely indicating Medicare beneficiary W.H. received 6,000 units of Gamunex.

**Medicare Beneficiary V.C.**

11. On or about December 22, 2004, Karina Estevez prepared an Infusion Record Sheet falsely stating that Medicare beneficiary V.C. had received Gamunex.

12. In or about January 2005, Ariel Estevez paid a cash kickback to Medicare beneficiary V.C. to attend the United Life clinic.

13. On or about January 28, 2005, Luis Garcia Higgins signed a "Super Bill" falsely indicating Medicare beneficiary V.C. had received 6,000 units of Gamunex.

14. On or about January 28, 2005, Ariel Estevez and Karina Estevez submitted or caused to be submitted a false claim to Medicare seeking reimbursement for the cost of 6,000 units of Gamunex that purportedly had been provided to Medicare beneficiary V.C. on that date.

24. On or about February 4, 2005, Luis Garcia Higgins signed a "Super Bill" falsely indicating Medicare beneficiary B.W. had received 6,000 units of Gamunex.

25. On or about February 4, 2005, Ariel Estevez and Karina Estevez submitted or caused to be submitted a false claim to Medicare seeking reimbursement for the cost of 6,000 units of Gamunex that purportedly had been provided to Medicare beneficiary B.W. on that date.

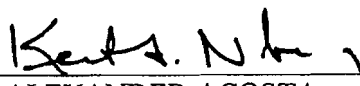
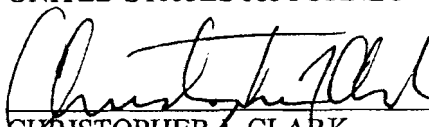
**Medicare Beneficiary E.H.**

26. On or about January 3, 2005, Karina Estevez prepared an Infusion Therapy Sheet falsely stating that Medicare beneficiary E.H. had received Gamunex.

27. On or about January 4, 2005, Ariel Estevez and Karina Estevez submitted or caused to be submitted a false claim to Medicare seeking reimbursement for the cost of 6,500 units of Gamunex that purportedly had been provided to Medicare beneficiary E.H. on that date.

28. On or about January 28, 2005, Luis Garcia Higgins signed a "Super Bill" indicating that Medicare beneficiary E.H. had received 6,500 units of Gamunex.

All in violation of Title 18 United States Code, Section 371.

  
\_\_\_\_\_  
R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY  
  
\_\_\_\_\_  
CHRISTOPHER J. CLARK  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

**CERTIFICATE OF TRIAL ATTORNEY\***

RUPERT FRANCIS,

Defendant.

**Superseding Case Information:**

Court Division: (Select One)

☒ Miami ☐ Key West  
☐ FTL ☐ WPB ☐ FTP

New Defendant(s) \_\_\_\_\_  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

Yes \_\_\_\_\_ No \_\_\_\_\_

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) NO  
List language and/or dialect \_\_\_\_\_

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

	(Check only one)		(Check only one)
I	0 to 5 days <u>X</u>	Petty	_____
II	6 to 10 days _____	Minor	_____
III	11 to 20 days _____	Misdem.	_____
IV	21 to 60 days _____	Felony	<u>X</u>
V	61 days and over _____		

6. Has this case been previously filed in this District Court? (Yes or No) NO

If yes:

Judge: \_\_\_\_\_

Case No. \_\_\_\_\_

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) NO

If yes:

Magistrate Case No. \_\_\_\_\_

Related Miscellaneous numbers: \_\_\_\_\_

Defendant(s) in federal custody as of \_\_\_\_\_

Defendant(s) in state custody as of \_\_\_\_\_

Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

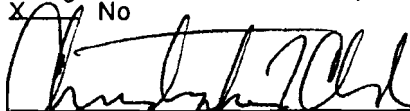
Is this a potential death penalty case? (Yes or No) NO

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? \_\_\_\_\_ Yes X No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? \_\_\_\_\_ Yes X No  
If yes, was it pending in the Central Region? \_\_\_\_\_ Yes X No

9. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes X No

10. Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? \_\_\_\_\_ Yes X No



CHRISTOPHER J. CLARK  
ASSISTANT UNITED STATES ATTORNEY  
Florida Bar No. 0588040

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: RUPERT FRANCIS

Case No:

Count #: 1

Conspiracy to commit health care fraud

18 U.S.C. § 371

\* Max. Penalty: 5 years' imprisonment

Count #: 2

\*Max. Penalty:    years' imprisonment

Count #: 3

\*Max. Penalty:    years' imprisonment

Count #: 4

\*Max. Penalty:    years' imprisonment

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**